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SIPDIS

SENSITIVE

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SUBJECT: GUATEMALA LABOR UPDATE #5-2003

This message contains an action request for USDOL/ILAB--see para 4.

1. (SBU) The following is an update of significant recent developments in the labor sector. Topics include:

- Minister of Labor's Priorities for Levine Bilateral in Brazil (para 2)
- Minister of Labor Wants Changes to USAID Labor Regional Project (PROALCA II) (4)
- Ambassador Again Raises Rigoberto Duenas Case with AG (3)
- Combating Blacklisting - MOL Information Request (5)
- Talking CAFTA - Prof. Feinberg Sparks GOG Interest (6)
- GOG Formalizes Labor Working Group (7)
- More Maquilas on GOG "Hit List" for Labor Violations (8)
- Special Prosecutor Promises Results, Wants Resources (9)
- GOG Proposes 100% Increase to Labor Ministry Budget (10)
- Canadians Launch Temporary Worker Program (11)
- TIP: Warrant Against Immigration Union Leader for Corruption

End Summary.

Brazil Bilateral  
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2. (SBU) Labor Minister Victor Moreira confirmed to LabAtt on August 27 that he intends to attend the OAS Labor Ministers Meeting in Salvador, Brazil, October 24-26. He gave LabAtt a copy of a declaration of Central American labor ministers, meeting in Managua on August 14-15, which, inter alia, thanks USDOL for its collaboration with the region through the ILO-RELACENTRO (labor relations), ILO-IPEC (child labor), and CERSSO (occupational safety and health) projects; and to USAID for its regional support through the PROALCA II project. The declaration also:

- takes note of the importance of labor migration, the importance of job creation in free trade zones, and the importance of technical cooperation to strengthen institutional capacity of labor ministries throughout the region;
- approves the creation of a Regional Foundation of Support to Occupational Health and Safety Programs (FUNDAPROSSO);
- congratulates Minister Moreira for proposing that the Council of Labor Ministers create a joint webpage;
- thanks Mexican Labor Minister Abascal for attending the Managua meeting and sharing his country's experiences under NAFTA;
- proposes Mexico as President Pro-tempore of the Inter-American Labor Ministers Conference in 2005;
- notes that the next meeting of the Council of CA Labor Ministers will take place in Guatemala in October; and,
- pledges support for the upcoming Plan of Action of the 13th Inter-American Labor Ministers Conference in Salvador de Bahia.

Moreira said he would be pleased to participate in a bilateral meeting between U.S. DUS Arnold Levine and Central American Labor Ministers. He suggested the U.S. contact the Honduran Minister, currently serving as President of the

Central American Labor Ministers, to confirm such a meeting. Moreira said he would like to discuss the following issues with DUS Levine:

A) Migration: Rights of Guatemala migrant workers in the U.S., including the right to carry a GOG-issued identification card, to facilitate access to lower transaction costs for remittances sent to Guatemala (from 22% to 13%). Moreira said Guatemalan consulates have the facilities to issue cards, but most migrants are not aware of this service. A statement from the USG on this issue, similar to the Chao-Abascal declaration of November 2002, and committing to mutual respect for the full labor protections of migrants, would be most welcome, he said.

B) CAFTA: The labor obligations of the CAFTA agreement proposed by the U.S. imply significant new efforts by the GOG, and corresponding demands for resources. To expand its services and coverage, the Labor Ministry will require new resources. Among the Minister's priorities are programs to protect indigenous worker rights (by adding 25 new professionals, including one in every province), child labor, and women workers. The GOG is already committed to more than double the Ministry's budget in 2004 to accomplish these new goals.

C) Cooperation (Assistance): In addition to the new demands on labor ministries resulting from CAFTA, technical assistance is needed to help the GOG set policies to generate employment. Worker training programs need to be re-focused and expanded. Current job training is focused on the formal sector, which comprises only 25% of Guatemalan jobs.

#### Labor Minister Comments on PROALCA II

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13. (SBU) Despite the positive mention in the Managua declaration, Moreira expressed concerns about the PROALCA II labor capacity building program sponsored by USAID. The consensus among the Central American labor ministers, he said, was that PROALCA II labor activities scheduled for the remainder of the year should be more focused on capacity-building more closely linked to the CAFTA negotiation. (AID Comment: This would require greater access by AID to the results of CAFTA labor negotiations. End Comment.)

#### Ambassador Raises Imprisonment of Labor Leader with AG

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14. (SBU) At the request of Jose Pinzon, Secretary General of the Confederation of Guatemalan Workers (CGTG), the Ambassador spoke with Attorney General Carlos de Leon Argueta on August 14 to express concern that the charges related to the Social Security Institute corruption scandal against labor leader Rigoberto Duenas be promptly investigated and to request that the Attorney General meet with labor leaders to discuss the case. De Leon agreed to do so. As of September 2, the meeting had not taken place. The next hearing for Duenas will be on September 8.

#### Combating Blacklisting - MOL Information Request

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15. (SBU) LabAtt expressed concern to Minister Moreira and Vice Minister of Labor Antonio Monzon on August 27 that blacklisting of workers fired for unionization activity is common practice in Guatemala, citing the DYMEI case, where members of the union executive committee continue to suffer discrimination in hiring. (Note: ex-DYMEI union leaders told LabAtt on August 26 that they had been hired by contractors for a Duke Energy project, but fired several days later after their link to the DYMEI labor conflict was noted by the employer. LabAtt raised this with visiting Duke Energy public relations official on August 27, who asked for details on the corporate entity which executed the hiring and promised to follow-up on allegations. End Note.) Both the Minister and Vice Minister concurred that anti-union discrimination is prevalent, and both cited personal examples. LabAtt urged them to explore ways to prosecute hiring discrimination against ex-union members, women and the indigenous. Vice Minister Monzon asked how the USG confronts the issue of blacklisting. LabAtt promised to seek information.

Action Request for USDOL/ILAB: Please provide any information on how the US prevents and combats blacklisting of workers involved in labor disputes.

#### Prof. Richard Feinberg Discusses CAFTA Labor Issues with GOG

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16. (SBU) Labor Minister Moreira and Economy Minister Patricia Ramirez told visiting Prof. Richard Feinberg, LabAtt and AID Trade Capacity Director Jim Stein on August 21 that the GOG was considering proposing to regional counterparts

meeting in El Salvador August 26 that CAFTA members commit to a series of medium-term quantifiable and time-bound indicators derived from the eight fundamental ILO conventions (e.g. to halve child labor in 5-10 years, etc.). Prof. Feinberg, noting he does not represent the USG, praised the ministers' plan but warned that to be credible in the U.S., such commitments must be accompanied by implementation plans and resources. The USG and other international organizations might possibly support implementation, including the IADB and World Bank, he said. Feinberg, visiting the region under AID's trade capacity building program, encouraged the GOG to view CAFTA talks as an opportunity to commit to medium-term labor enforcement capacity building in the region, with US and international donor support. He also promoted private sector monitoring efforts and praised the GOG for its efforts to enforce labor laws in the maquila sector in collaboration with the Fair Labor Association (in the Choi Shin case).

#### GOG Formalizes Labor Working Group, Almost

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17. (U) The GOG issued a decree on August 13 formally establishing a "Multi-institutional Working Commission for Labor Relations in Guatemala," chaired by the Labor Minister and comprised of the Ministers of Economy and Foreign Relations, the President of the Supreme Court, President of Congress, the Attorney General, the Solicitor General, the head of the tax authority, and the general manager of the Social Security Institute (IGSS). The group is charged with meeting at least once every four months as long as necessary to "guarantee adequate treatment of labor relations during the negotiation and implementation of free trade agreements, that include labor clauses requiring labor cooperation, respect and effective enforcement of labor rights." The Commission's decree also forms a permanent subcommission on Work in the Export and Maquila Sector, to enforce labor conditions of export privileges and create a unified registry of maquilas. The decree will take effect upon publication in the Central American daily, the Government newspaper. (To date it has not been published.)

#### More Maquilas on GOG "Hit List" for Labor Violations

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18. (SBU) Labor Minister Moreira gave LabAtt a copy of a letter he sent to Economy Minister Ramirez, dated August 21, informing her of 69 labor violations at 17 maquilas, listed in priority order, and requesting the initiation of proceedings to withdraw tax privileges if the violations are not remedied in a period of 30 days. The violations include a wide range of complaints, including non-payment of required benefits, overtime, and severance; registration with the Social Security Institute; denial of breast-feeding breaks; illegal suspension and firings; etc. The letter also mentions 43 new violations at nine of these same plants, for which another report will be prepared. Most of the factories are Korean-owned. This initiative to enforce labor laws in the for-export maquila sector follows the GOG's successful effort to compel the Choi Shin/Cimatextiles company to rectify pending violations and negotiate a collective bargaining agreement with its unions. Vice Minister Monzon said that the companies to be sanctioned will be notified during the week of August 24.

#### Special Prosecutor Promises Results, Wants Resources

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19. (SBU) LabAtt met with Special Prosecutor for Crimes Against Unionists and Journalists, Antonio Cortez Sis, on August 26, to review progress in investigations of these cases, and to express concern about the apparent lack of results. Cortez responded defensively to public criticism from labor unions (CGTG) about lack of progress in the investigation of the murder of Oswaldo Monzon Lima, head of a trucking union, on June 22, 2000. Cortez blamed Monzon Lima's son for not providing useful information to help charge Mario Ortiz Barranco, the owner of the trucking company, whom he suspects as the "intellectual author" of the crime. However, he said, he will meet with a witness on August 30 who claims to have heard Ortiz threaten the life of Monzon Lima. Cortez Sis said he would ask a judge to charge Ortiz with the crime if the witness' testimony is sufficient. Meanwhile, Ortiz has filed a legal complaint of defamation against CGTG leader Jose Pinzon for publicly accusing him of being involved in the Monzon Lima murder. Cortez Sis cited severe resource constraints hampering his office, comprised of 8 officials and staff, two working computers, and one dedicated vehicle. His current caseload is 55 labor cases and 45 involving journalists. LabAtt acknowledged Cortez Sis' letter to the Ambassador requesting material support, emphasizing the need for concrete progress in priority cases (such as the Monzon Lima murder). (Comment: We will give Cortez the benefit of the doubt for another week, but are disappointed by his results to date. End Comment.)

#### GOG Proposes 100% Increase to Labor Ministry Budget

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110. (U) Labor Minister Moreira provided LabAtt with a copy of a letter dated August 22, 2003 from Finance Minister Eduardo Weymann pledging to set the Labor Ministry's 2004 budget at 125 million quetzals (approx. \$16 million). (Comment: If implemented by the next government, this would more than double the 2003 Labor Ministry budget. End Comment.)

Canadians Launch Guatemalan Guest Worker Program  
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111. (U) The Canadian Embassy announced a new legal migrant worker program for 167 Guatemalan workers (136 men and 31 women) to harvest fruit in Quebec for four months. (Comment: We will monitor this program's results and consider its implications for the U.S. H2B visa program. End Comment.)

Warrant Issued For Arrest of Immigration Union Leader  
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112. (SBU) Press reported on June 19 that a judge in Peten had issued an arrest warrant against Rodolfo Quinonez, the General Secretary of the Immigration Workers Union, for "passive co-action and illegal transit of persons." Unnamed Immigration Directorate sources accuse Quinonez of corruption and acting as a leader of a band of alien-smuggling "coyotes." Earlier in June, Zoila Ochaeta, the Immigration delegate in Peten, was detained by authorities under similar charges. Questioned in January by journalists, Quinonez accused the Director of Immigration of anti-union repression after the union denounced the Director's involvement in smuggling Asians. Comment: The union and Director have traded counter-charges of corruption over the past two years, and union complaints were considered by the ILO. Both sets of corruption charges appear plausible to us. End Comment.  
HAMILTON